



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

KENNYADA MITCHELL

PLAINTIFF

VS.

CIVIL ACTION NO. 5:17cv113KSMTP

**LISA DAVIS and JOHN
DOES 1 – 10**

DEFENDANTS

LISA DAVIS' NOTICE OF REMOVAL

NOW COMES, LISA DAVIS (hereinafter "Davis"), by and through counsel and without waiving any objections to venue or other defenses, including any defenses under Rules 12(b) and 8(c) of the Federal Rules of Civil Procedure, and files this Notice of Removal of this action from the Circuit Court of Copiah County, Mississippi, to the United States District Court for the Southern District of Mississippi, Western Division, and in support hereof, would show unto the Court the following:

I. COMPLAINT

1. On July 26, 2017, Kennyada Mitchell ("Plaintiff") filed her Complaint in this matter, hereto attached as Exhibit "A", against Lisa Davis and John Does 1-10 in the Circuit Court of Copiah County, Mississippi, this being cause number 2017-0196. Davis was served with copies of the Summons and Complaint on July 27, 2017. Exhibit "B", Service of Process Transmittal. Ms. Davis is the Superintendent of Schools of the Hazlehurst City School District (HCSD). Although it is stated she is being sued in her individual capacity, the action complained of would not have happened but for her position as superintendent. Most if not all of the

allegations, in her complaint, referred to actions which were taken in concert with HCSD and Mississippi Department of Education (MDE) officials.

2. In her Complaint, Plaintiff alleges that “the defendant, Lisa Davis, deliberately, intentionally, maliciously, and with reckless disregard for the rights of the plaintiff interfered with plaintiff’s employment contract with the MDE”, she further alleges retaliation for exercising her freedom of speech “to HCSD officials, personnel of the Accreditation Department of the MDE, and defendant Lisa Davis, about a matter of public concern constituted a unlawful retaliation and unlawful abridgment of plaintiff’s right to freedom of speech as secured to the by First and Fourteenth Amendments to the United States Constitution and 42 U. S. C. §1983”. In addition she alleges, “fraudulent misrepresentation, intentional infliction of emotional distress, and for declaratory and injunctive relief.....Exhibit “A”, at pgs. 6-9 (¶¶40-41, 49-54). Plaintiff requests a “judgment of and from the defendants.....in the amount to be determined by a jury at trial together with court costs and litigation expenses and pre-judgment and post-judgment interest....Complaint.¶¶ 53-56.

II. PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN MET

A. This Case is Removable under 28 U. S. C. §1441(a); 28 U. S. C. §1331; 42 U. S. C. §1983; 42 U. S. C. §1985; and 42 U. S. C. §1988.

FEDERAL QUESTION JURISDICTION

3. Civil actions over which district courts have original jurisdiction are removable. 28 U.S.C. §1441(a). Federal district courts have “original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 29 U.S.C. §1331. As noted above, Plaintiff’s Complaint is brought pursuant to the First and Fourteenth Amendments to the United States Constitution and 42 U. S. C. §1983. Plaintiff also has brought

supplemental state law claims. When this Court has original jurisdiction over one or more of a Plaintiff's claims, it "shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. §1367(a). The state law claims alleged in Plaintiff's Complaint "arise out of a common nucleus of operative fact with [the federal claims such that they] 'form part of the same case or controversy under Article III of the United States Constitution.'" Cornett v. Longois, 275 F.3d 42 (5th Cir. 2001)(quoting 28 U.S.C. Section 1367(a)). As such, this Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. Section 1367(a). Accordingly, this action may be removed to this Court pursuant to the provisions of 28 U.S.C. Section 1441c(1)(A) and (B). Therefore, the removal of this case to the United States District Court for the Southern District of Mississippi, Jackson Division, pursuant to 28 U. S. C. §§ 1331, 1441, and 1446(b), is proper.

B. This Removal is Timely under 42 U. S. C. 1446(b)

4. Under 28 U.S.C. §1446(b), a notice of removal can be filed within thirty (30) days after receipt "through service or otherwise, [of] a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based[.]"

5. As stated, Defendant Davis was served with a copy of the Summons and Complaint on July 27, 2017. Exhibit B. Davis is removing this case within thirty days of July 27, 2017. Therefore, this removal is timely.

C. Required Documents have been attached, and Notice has been given to the Clerk

6. Pursuant to 28 U.S.C. §1446(a), copies of process, pleadings, and orders served on Kenneyada Mitchell are attached hereto as Exhibit C. Pursuant to Rule 5(b) of the

Local Uniform Civil Rules, a true and correct copy of the entire state-court file will be filed with this Court within fourteen (14) days of the date of removal.

WHEREFORE PREMISES CONSIDERED, Defendant, Lisa Davis hereby removes this action bearing Cause No. 2017-0196 from the Circuit Court of Copiah County, Mississippi, to the United States District Court for the Southern District of Mississippi, Western Division.

THIS the 25th day of August, 2017.

RESPECTFULLY SUBMITTED

LISA DAVIS

BY:


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Attorney for Defendant Lisa Davis

CERTIFICATE OF SERVICE

I, Deborah McDonald, hereby certify that a copy of this document was filed using the court's ECF system, which should have automatically emailed a copy to:

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THIS the 25th day of August, 2017.



DEBORAH MCDONALD